

ASSEMBLY BILL

No. 998

Introduced by Assembly Member Chu

February 22, 2005

An act to amend Section 11160 of the Penal Code, relating to reporting.

LEGISLATIVE COUNSEL'S DIGEST

AB 998, as introduced, Chu. Reporting: sexual assaults: medical exams.

Existing law requires health practitioners, as defined, who provide medical services to certain persons to immediately make a report to a local law enforcement agency that contains certain personal and medical information. Those certain persons include persons suffering from an injury inflicted by a firearm, and persons suffering from an injury inflicted as the result of assaultive or abusive conduct.

This bill would require health practitioners to also make a report to a local law enforcement agency upon providing medical services to persons in the custody of law enforcement from whom evidence is sought in connection with the investigation of a sexual assault crime. Because the bill would impose new duties on local agencies, it would impose a state mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11160 of the Penal Code is amended to
2 read:

3 11160. (a) Any health practitioner employed in a health
4 facility, clinic, physician's office, local or state public health
5 department, or a clinic or other type of facility operated by a
6 local or state public health department who, in his or her
7 professional capacity or within the scope of his or her
8 employment, provides medical services for a physical condition
9 to a patient whom he or she knows or reasonably suspects is a
10 person described as follows, shall immediately make a report in
11 accordance with subdivision (b):

12 (1) Any person suffering from any wound or other physical
13 injury inflicted by his or her own act or inflicted by another
14 where the injury is by means of a firearm.

15 (2) Any person suffering from any wound or other physical
16 injury inflicted upon the person where the injury is the result of
17 assaultive or abusive conduct.

18 (3) *Any person in the custody of law enforcement from whom*
19 *evidence is sought in connection with the investigation of a*
20 *sexual assault crime.*

21 (b) Any health practitioner employed in a health facility,
22 clinic, physician's office, local or state public health department,
23 or a clinic or other type of facility operated by a local or state
24 public health department shall make a report regarding persons
25 described in subdivision (a) to a local law enforcement agency as
26 follows:

27 (1) A report by telephone shall be made immediately or as
28 soon as practically possible.

29 (2) A written report shall be prepared on the standard form
30 developed in compliance with paragraph (4) of this subdivision,
31 and Section 11160.2, and adopted by the agency or agencies
32 designated by the Director of Finance pursuant to Section 13820,
33 or on a form developed and adopted by another state agency that
34 otherwise fulfills the requirements of the standard form. The
35 completed form shall be sent to a local law enforcement agency

1 within two working days of receiving the information regarding
2 the person.

3 (3) A local law enforcement agency shall be notified and a
4 written report shall be prepared and sent pursuant to paragraphs
5 (1) and (2) even if the person who suffered the wound, other
6 injury, or assaultive or abusive conduct has expired, regardless of
7 whether or not the wound, other injury, or assaultive or abusive
8 conduct was a factor contributing to the death, and even if the
9 evidence of the conduct of the perpetrator of the wound, other
10 injury, or assaultive or abusive conduct was discovered during an
11 autopsy.

12 (4) The report shall include, but shall not be limited to, the
13 following:

14 (A) The name of the injured person, if known.

15 (B) The injured person's whereabouts.

16 (C) The character and extent of the person's injuries.

17 (D) The identity of any person the injured person alleges
18 inflicted the wound, other injury, or assaultive or abusive conduct
19 upon the injured person.

20 (c) For the purposes of this section, "injury" shall not include
21 any psychological or physical condition brought about solely
22 through the voluntary administration of a narcotic or restricted
23 dangerous drug.

24 (d) For the purposes of this section, "assaultive or abusive
25 conduct" shall include any of the following offenses:

26 (1) Murder, in violation of Section 187.

27 (2) Manslaughter, in violation of Section 192 or 192.5.

28 (3) Mayhem, in violation of Section 203.

29 (4) Aggravated mayhem, in violation of Section 205.

30 (5) Torture, in violation of Section 206.

31 (6) Assault with intent to commit mayhem, rape, sodomy, or
32 oral copulation, in violation of Section 220.

33 (7) Administering controlled substances or anesthetic to aid in
34 commission of a felony, in violation of Section 222.

35 (8) Battery, in violation of Section 242.

36 (9) Sexual battery, in violation of Section 243.4.

37 (10) Incest, in violation of Section 285.

38 (11) Throwing any vitriol, corrosive acid, or caustic chemical
39 with intent to injure or disfigure, in violation of Section 244.

- 1 (12) Assault with a stun gun or taser, in violation of Section
2 244.5.
- 3 (13) Assault with a deadly weapon, firearm, assault weapon,
4 or machinegun, or by means likely to produce great bodily
5 injury, in violation of Section 245.
- 6 (14) Rape, in violation of Section 261.
- 7 (15) Spousal rape, in violation of Section 262.
- 8 (16) Procuring any female to have sex with another man, in
9 violation of Section 266, 266a, 266b, or 266c.
- 10 (17) Child abuse or endangerment, in violation of Section
11 273a or 273d.
- 12 (18) Abuse of spouse or cohabitant, in violation of Section
13 273.5.
- 14 (19) Sodomy, in violation of Section 286.
- 15 (20) Lewd and lascivious acts with a child, in violation of
16 Section 288.
- 17 (21) Oral copulation, in violation of Section 288a.
- 18 (22) Sexual penetration, in violation of Section 289.
- 19 (23) Elder abuse, in violation of Section 368.
- 20 (24) An attempt to commit any crime specified in paragraphs
21 (1) to (23), inclusive.
- 22 (e) When two or more persons who are required to report are
23 present and jointly have knowledge of a known or suspected
24 instance of violence that is required to be reported pursuant to
25 this section, and when there is an agreement among these persons
26 to report as a team, the team may select by mutual agreement a
27 member of the team to make a report by telephone and a single
28 written report, as required by subdivision (b). The written report
29 shall be signed by the selected member of the reporting team.
30 Any member who has knowledge that the member designated to
31 report has failed to do so shall thereafter make the report.
- 32 (f) The reporting duties under this section are individual,
33 except as provided in subdivision (e).
- 34 (g) No supervisor or administrator shall impede or inhibit the
35 reporting duties required under this section and no person making
36 a report pursuant to this section shall be subject to any sanction
37 for making the report. However, internal procedures to facilitate
38 reporting and apprise supervisors and administrators of reports
39 may be established, except that these procedures shall not be
40 inconsistent with this article. The internal procedures shall not

1 require any employee required to make a report under this article
2 to disclose his or her identity to the employer.

3 (h) For the purposes of this section, it is the Legislature's
4 intent to avoid duplication of information.

5 SEC. 2. If the Commission on State Mandates determines that
6 this act contains costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.